

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: GOOGLE DIGITAL ADVERTISING  
ANTITRUST LITIGATION

21-md-3010 (PKC)

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THIS DOCUMENT RELATES TO:

SPX Total Body Fitness LLC, d/b/a The  
Studio Empower, on behalf of itself and all  
others similarly situated,

1:21-cv-06870-PKC

Plaintiff,

*and*

SKINNYSCHOOL LLC d/b/a MARIA  
MARQUES FITNESS and MINT ROSE DAY  
SPA LLC, on behalf of themselves and all  
others similarly situated,

1:21-cv-07045-PKC

Plaintiffs,

**JURY TRIAL DEMANDED**

vs.

GOOGLE LLC,

Defendant.

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**PLAINTIFFS' MOTION FOR LEAVE TO FILE THEIR MEMORANDUM OF LAW IN  
OPPOSITION TO DEFENDANT GOOGLE LLC'S MOTION TO DISMISS SPX'S  
CONSOLIDATED AMENDED CLASS COMPLAINT UNDER SEAL**

Pursuant to this Court's Individual Practice No. 5, SPX Total Body Fitness LLC, d/b/a The Studio Empower ("SPX"), Mint Rose Day Spa LLC ("Mint Rose") and SkinnySchool LLC, d/b/a Maria Marques Fitness ("SkinnySchool") (the "Plaintiffs") file this Motion for Leave to File their Memorandum of Law in Opposition to Defendant Google LLC's Motion to Dismiss SPX's

Consolidated Amended Class Action Complaint Under Seal. Along with the unredacted version of the Memorandum (Exhibit A), Plaintiffs provide, to be publicly filed, proposed redactions that are consistent with the Court's prior guidance in this case to the best of their ability.

In accordance with Individual Practices Rule 5B(iii), the Plaintiffs are filing the Memorandum publicly on the docket with redactions. Simultaneously, the Plaintiff are also filing, as an Exhibit A to this Motion, the unredacted Memorandum with proposed redactions highlighted in yellow. Out of an abundance of caution, the publicly filed redacted version of the Memorandum redacts all items that were produced by Google, LLC, designated under the Protective Order. ECF No. 297. Plaintiffs believe they are required to file such information under seal but that Google must justify its remaining under seal. Plaintiffs believe that any questions about whether information should remain under seal should be resolved in favor of public access. *See Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 142 (2nd Cir. 2016); *Bronx Conservatory of Music, Inc. v. Kwoka*, 2021 WL 2850632 (S.D.N.Y. July 8, 2021) (“[I]t is well-settled that generalized concerns of adverse publicity and reputational injury ... cannot justify an order sealing a core judicial document.”). As a result, Plaintiffs believe that Google and other affected entities should be required to show cause in writing, by March 17, 2023 (two weeks from the date of this Motion), why the Memorandum ought not be publicly filed in unredacted form.

Dated: March 3, 2023

Respectfully submitted,

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